



3732

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

## In re Application

Inventor(s): Zucherman, et al.  
SC/Serial No.: 09/842,819  
Confirm. No.: 2799  
Filed: April 26, 2001  
Title: SUPPLEMENTAL SPINE FIXATION DEVICE  
AND METHOD

PATENT APPLICATION

Art Unit: 3732

Examiner:

Customer No. 23910

RECEIVED

JUN - 3 2002

TECHNOLOGY CENTER R3700

## CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, Washington, DC 20231, on May 23, 2002.

(Attorney Signature)

Sheldon R. Meyer, Reg. No. 27,660  
Signature Date: May 23, 2002

## TRANSMITTAL LETTER

Commissioner for Patents  
Washington, DC 20231

Sir:

Transmitted herewith are the following:

- Supplemental Information Disclosure Statement under 37 C.F.R. §1.56 with cited references.
- No fee is required with this communication.
- The Commissioner is hereby authorized to charge underpayment of any additional fees associated with this communication to Deposit Account No. 06-1325. A duplicate copy of this authorization is enclosed.

Respectfully submitted

By:

Sheldon R. Meyer  
Reg. No. 27,660

Date: May 23, 2002

FLIESLER, DUBB, MEYER & LOVEJOY LLP  
Four Embarcadero Center, Suite 400  
San Francisco, California 94111-4156  
Telephone: (415) 362-3800



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application  
Inventor(s): Zucherman, et al.  
SC/Serial No.: 09/842,819  
Confirm. No.: 2799  
Filed: April 26, 2001  
Title: SUPPLEMENTAL SPINE FIXATION DEVICE  
AND METHOD

*#9*  
RECEIVED

PATENT APPLICATION

JUN - 3 2002

Art Unit: 3732

Examiner: TECHNOLOGY CENTER R3700

Customer No. 23910

**CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8**

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to **Commissioner for Patents, Washington, DC 20231**, on May 23, 2002.

*(Attorney Signature)*

Sheldon R. Meyer, Reg. No. 27,660

Signature Date: May 23, 2002

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §1.56**

Commissioner for Patents  
Washington, DC 20231

Sir:

It is requested that the information identified in this statement be considered by the Examiner and made of record in the above-identified application. This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56. If this is a continuation, divisional or continuation-in-part application, it is understood that the Examiner will consider all information which was considered by the Office in a parent application. MPEP §609. Such information therefore is not listed herein unless it is desired that the information be printed on a patent issuing from the subject application.

Notwithstanding anything stated herein, a copy of each of the references listed herein is attached to this disclosure.

This disclosure may include references previously cited. However, these references are attached hereto for completeness.

***Enclosed with this statement are the following:***

- Form PTO-1449. The Examiner is requested to initial the form and return it to the undersigned in accordance with M.P.E.P. §609.
- A copy of each cited document as required by 37 C.F.R. §1.98. Copies are not submitted of documents previously submitted by the applicant in a parent application from which benefit under 35

U.S.C. §120 is claimed, 37 C.F.R. §1.98(d)(1), with an information disclosure statement submitted in the parent application which complies with the Sept. 8, 2000 or subsequent revision of 37 C.F.R. §1.98(a-c). If any of the cited/submitted documents is in a foreign language, a concise explanation of relevance is provided pursuant to 37 C.F.R. §1.98(a)(3)(i). For foreign language documents cited in a search report by a foreign patent office, the requirement for a concise explanation of relevance is satisfied by the submission herewith of an English language version of the search report. MPEP §609A(3). If a written English-language translation of a non-English language document, or portion thereof, is within the possession, custody or control of, or is readily available to any individual designated in §1.56(c), a copy of the translation accompanies this statement, 37 C.F.R. §1.98(a)(3)(ii), and satisfies the requirement for a concise explanation of relevance, MPEP §609A(3).

— **PTA Statement under 37 C.F.R. §1.704(d).** Each item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in §1.56(c) more than thirty days prior to the filing of the information disclosure statement.

*This statement should be considered because:*

—  **37 C.F.R. §1.97(b).** This statement qualifies under 37 C.F.R. §1.97, subsection (b) because:

- (1) It is being filed within three months of the filing date of an application other than a continued prosecution application under § 1.53(d);  
-- OR --
- (2) It is being filed within 3 months of entry of a national stage;  
-- OR --
- (3) It is being filed before the mailing date of the first Office Action on the merits,  
-- OR --
- (4) It is being filed before the mailing date of the first Office Action after the filing of a Request for Continued Examination under 37 C.F.R. §1.114.

— **37 C.F.R. §1.97(c).** Although it may not qualify under subsection (b), this statement qualifies under 37 C.F.R. §1.97, subsection (c) because:

- (1) It is being filed before the mailing date of a FINAL office action, a Notice of Allowance, or an action that otherwise closes prosecution in the subject application, whichever occurs first.

— *-- AND (check at least one of the following) --*

- (1) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e).  
-- OR --
- (2) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

— **37 C.F.R. §1.97(d).** Although it may not qualify under subsection (b) or (c), this statement qualifies under 37 C.F.R. §1.97, subsection (d) because:

- (1) It is being filed on or before payment of the issue fee;  
-- AND --
- (2) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e);  
-- AND --
- (3) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

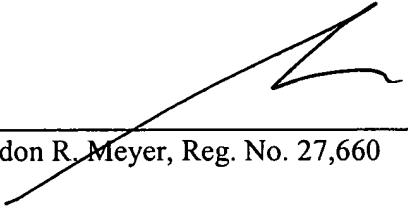
✓ **Fee Authorization.** The Commissioner is hereby authorized to charge underpayment of any additional fees or credit any overpayment associated with this communication to Deposit Account No. 06-1325. A duplicate copy of this authorization is enclosed.

Respectfully submitted,

FLIESLER DUBB MEYER & LOVEJOY LLP

Date: May 23, 2002

By: \_\_\_\_\_

  
Sheldon R. Meyer, Reg. No. 27,660

FLIESLER DUBB MEYER & LOVEJOY LLP  
Four Embarcadero Center, Fourth Floor  
San Francisco, California 94111-4156  
Telephone (415) 362-3800



Sheet        of       

Form PTO-1449 (Substitute)		Attorney Docket Number KLYC-01033US4 SRM	Serial/Patent Number 09/842,819
<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b> <i>(Use several sheets if necessary)</i>		Applicant/Patent Owner Zucherman, et al.	<b>RECEIVED</b> Group Art Unit: 3732 JUN - 3 2002
		Filing/Issue Date April 26, 2001	

**U.S. PATENTS**

Examiner Initial	Patent Number	Issue Date	First Named Inventor	TECHNOLOGY CENTER R3700	Class	Subclass	Filing Date
U1	6,234,705 B1	5-2001	Troxel				
U2	6,156,067	12-2000	Bryan et al.				
U3	6,113,639	9-2000	Ray et al.				
U4	6,001,130	12-1999	Bryan et al.				
U5	5,888,224	3-1999	Beckers et al.				
U6	5,766,252	6-1998	Henry et al.				
U7	5,676,702	10-1997	Ratron				
U8	5,674,296	10-1997	Bryan et al.				
U9	5,505,732	4-1996	Michelson				
U10	5,458,643	10-1995	Oka et al.				
U11	5,443,514	8-1995	Steffee				
U12	5,390,683	2-1995	Pisharodi				
U13	5,306,309	4-1994	Wagner et al.				
U14	5,167,662	12-1992	Hayes et al.				
U15	5,123,926	6-1992	Pisharodi				
U16	4,946,378	8-1990	Hirayama et al.				
U17	4,878,915	11-1989	Brantigan				
U18	4,834,757	5-1989	Brantigan				
U19	4,790,303	12-1988	Steffee				
U20	4,599,084	7-1986	Nashef				
U21	4,599,086	7-1986	Doty				
U22	4,501,269	2-1985	Bagby				



FOREIGN PATENT DOCUMENTS

Examiner Initial		Document Number	Publication Date	Country	Class	Subclass	RECEIVED Trans. lation JUN Yes? No? 0002
	F1	EP 1138268 A1	10-2001	EPO		TECHNOLOGY CENTER	*
	F2	FR 2806616 A1	9-2001	France			*
	F3	FR 2806614 A1	9-2001	France			*
	F4	WO 01/28442 A1	4-2001	PCT			*
	F5	WO 00/04851	2-2000	PCT			✓
	F6	WO 00/13620	3-2000	PCT			✓
	F7	WO 00/13619	3-2000	PCT			✓
	F8	FR 2782911 A1	3-2000	France			*
	F9	FR 2780269 A1	12-1999	France			*
	F10	WO 99/59669	11-1999	PCT			✓
	F11	WO 99/42051	8-1999	PCT			*
	F12	WO 99/40866	8-1999	PCT			*
	F13	WO 99/26562	6-1999	PCT			*
	F14	WO 98/48717	11-1998	PCT			*
	F15	EP 0767636 B1	4-1997	EPO			*
	F16	FR 2722980 A1	2-1996	France			*
	F17	EP 0677277 A2	10-1995	EPO			*
	F18	FR 2717675	9-1995	France			*
	F19	FR 2707864 A1	1-1995	France			*
	F20	WO 94/26192	11-1994	PCT			*
	F21	WO 94/21185	9-1994	PCT			✓

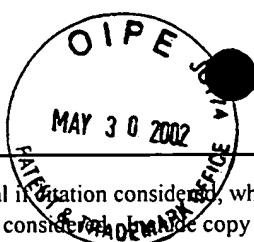
\* English Abstract attached

OTHER DOCUMENTS (Include author (if any), title, publisher and place of publication, date and pertinent pages)

O1	Haruo Tsuji, et al., <i>Ceramic Interspinous Block (CISB) Assisted Anterior Interbody Fusion</i> , Journal of Spinal Disorders, Vol.3, No.1, pp.77-86, ©1990 Raven Press, Ltd., New York
O2	Richard W. Porter, MD, FRCS, FRCSE, <i>Spinal Stenosis and Neurogenic Claudication</i> , SPINE Volume 21, Number 17, pp.2046-2052, ©1996, Lippincott-Raven Publishers

Examiner

Date Considered



Sheet    of   

\*EXAMINER: Initial ~~initial~~ citation considered, whether or not citation is in conformance with MPEP 609. Draw line through ~~citation if not in~~ **RECEIVED**  
conformance and not considered. ~~initial~~ **RECEIVED** copy of this form with next communication to applicant.

\*1 = Copy not submitted because it was submitted in prior application SN    /   , filed   , 20  , relied on under 35 USC §1002

\*2 = Copy not submitted because it was submitted in prior application SN    /   , filed   , 20  , relied on under 35 USC §120.

JUN 2002  
ENTIMATOLOGY CENTER R3700